IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

F.A.O. No.3191 of 2006 (O.&M.)
Date of decision: 8.9.2006

National Insurance Company Limited.

..... Appellant

Versus

Chander Bhan and others.

..... Respondents

CORAM : Hon'ble Mr.Justice Uma Nath Singh
Hon'ble Mr.Justice Mahesh Grover

....

Present: Shri Suman Jain, Advocate for the appellant.

....

This F.A.O. arises out of award dated 6.12.2005 passed by the Presiding Officer, Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhari (hereinafter described as `the Tribunal') in M.A.C.T.Case No.94 of 2004 awarding a sum of Rs.2,11,000/- to one of the claimants in a case where thirty two passengers died when the bus in question fell into a river.

Learned counsel for the appellant submitted that the insurance policy issued in respect of the bus in question covered only 28 passengers, whereas the dead bodies taken out from the river were thirty two. According to the learned counsel, since thirty two passengers were travelling in the bus, there was a breach of insurance policy.

We have carefully considered the submission of the learned counsel and also perused the impugned award. Admittedly, no such plea

was raised before the Tribunal and only the insurance cover was placed on record. That apart, if the submission of the learned counsel is to be acceded to, only four persons were extra and whether the additional load of four persons could cause the driving problem or mechanical defect in the vehicle in question is yet to be established. Therefore, it is difficult to accept the submission of the learned counsel for the appellant that simply because four extra persons were travelling in the bus in question, the insurance company should be exonerated.

On the basis of the above discussion, we do not find any merit in the appeal which deserves to be dismissed in limine.

Moreover, there are delays of 73 days and 14 days in filing and refiling of the appeal, respectively. Since the delay in respect of the refiling of the appeal has been occasioned in the office of the counsel for the appellant, the same is condoned. However, the delay in the filing of the appeal cannot be extended in terms of the judgment of the Supreme Court in P.K.Ramchandran Versus State of Kerala and another, AIR 1998 S.C. 2276, wherein their Lordships have held that the Court cannot extend the limitation on equitable grounds.

Therefore, the appeal is dismissed on account of delay as well as on merits.

(Uma Nath Singh)
Judge

September 08,2006 (Mahesh Grover)
"SCM" Judge